

**IOWA DEPARTMENT OF NATURAL RESOURCES  
ADMINISTRATIVE CONSENT ORDER**

IN THE MATTER OF:

**CUSTOM HARDWARE  
MANUFACTURING, INC.**

ADMINISTRATIVE CONSENT ORDER  
NO. 2008-AQ-02

TO: Anthony P. Lambros, President  
Rodney Garrett, Plant Manager  
2600 Kindustry Park Road  
Keokuk, Iowa 52632

**I. SUMMARY**

This administrative consent order is entered into between the Iowa Department of Natural Resources (DNR) and Custom Hardware Manufacturing, Inc. (CHMI) for the purpose of resolving issues pertaining to NESHAP violations and construction permit compliance at the CHMI facility. In the interest of avoiding litigation, the parties have agreed to the provision below.

Questions regarding this administrative consent order should be directed to:

**Relating to technical requirements:**

Kurt Levetzow, Field Office 6  
Iowa Department of Natural Resources  
1023 West Madison  
Washington, Iowa 52353  
Phone: 319/653-2135

**Relating to legal requirements:**

Anne Preziosi, Attorney for the DNR  
Iowa Department of Natural Resources  
7900 Hickman Road, Suite 1  
Urbandale, Iowa 50322  
Phone: 515/281-6243

**Payment of penalty to:**

Director of the Iowa DNR  
Wallace State Office Building  
502 East Ninth Street  
Des Moines, Iowa 50319-0034

**II. JURISDICTION**

Pursuant to the provisions of Iowa Code sections 455B.134(9) and 455B.138(1) which authorize the Director to issue any order necessary to secure compliance with or prevent a violation of Iowa Code Chapter 455B, Division II (air quality), and the rules promulgated or permits issued pursuant to that part; and Iowa Code section 455B.109 and 567 Iowa Administrative Code (IAC) Chapter 10, which authorize the Director to assess

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administrative penalties, the DNR has jurisdiction to issue this administrative consent order.

**III. STATEMENT OF FACTS**

1. CHMI manufactures bath and shower hardware, and architectural hardware, at its facility located on the western edge of Keokuk, Iowa. Operations at this facility include a halogenated solvent cleaning machine, stainless steel and aluminum polishing lathes, grinding operations, surface coating booth, and a bake oven.
2. On October 24, 1991, Administrative Order No. 91-AQ-27 was issued to CMHI and was signed by former Director, Larry Wilson, for construction permit violations.
3. On November 11, 1998 the Environmental Protection Agency (EPA) filed a complaint with DNR Field Office 6 against CHMI, requesting an investigation due to a multimedia screening checklist completed by EPA inspectors.
4. On November 20, 1998 DNR staff conducted an air quality compliance inspection and found violations of DNR construction permitting regulations, as well as 40 CFR part 63 subpart T compliance violations.
5. On December 30, 1998, DNR issued a Notice of Violation letter for the November 20, 1998 violations.
6. On January 28, 1999, DNR received a letter from CHMI that stated CHMI intended to comply with the December 30, 1998 Notice of Violation.
7. On September 1, 1999, DNR received a letter from CMHI with details on how the facility was planning to achieve compliance with the December 30, 1998 Notice of Violation.
8. On February 19, 2007, DNR staff conducted an air quality compliance inspection at CHMI. It was determined that the facility was not in compliance with 40 CFR Part 63 subpart T or the construction permit requirements.
9. On February 28, 2007, DNR issued a Notice of Violation to CMHI. The letter informed CHMI that the outcome of the inspection would lead to further enforcement action.

**IV. CONCLUSIONS OF LAW**

1. Iowa Code section 455B.133 provides that the Environmental Protection Commission shall establish rules governing the quality of air and emission standards. The Commission has adopted 567 IAC chapters 20-30 relating to air quality.

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2. Pursuant to Iowa Code sections 455B.133 and 455B.134, 567 IAC 22.1(1) requires that a person who construct, install, reconstructs, or alters equipment or control equipment must first obtain an air quality construction permit from the DNR unless an exemption applies. According to the count taken by DNR during a recent inspection, CMHI has eight polishing lathes and three grinding machines at the facility. CMHI has construction permits for only three of the polishing lathes. The addition of the other polishing lathes and grinding machines were not incorporated into any of the original permits. The above facts indicate violations of this provision.

3. 40 CFR part 63, Subpart T, lists recordkeeping and reporting requirements for NESHAP compliance. The EPA has delegated to the State of Iowa the authority to implement and enforce the Halogenated Solvent Cleaning NESHAP, found at 40 CFR part 63, subpart T.

4. CHMI operates a batch vapor cleaning machine that is subject to 40 CFR part 63, subpart T. CHMI has chosen the alternative standard to comply with this section, which requires: (1) dates and amount of solvent added to each machine (40 CFR 63.467(c)(1)); (2) solvent composition of waste removed (40 CFR 63.467(c)(2)); (3) calculation sheets showing how monthly emissions and the rolling three month average emission were determined, and results of all calculations (40 CFR 63.467(c)(3)); (4) annual solvent emission report (40 CFR 63.468(g)); and (5) Semi-annual exceedance report (quarterly if no exceedances have occurred) (40 CFR 63.468(h)). The DNR has not received CHMI's annual solvent emission report of the semi-annual exceedance report. Further, it is doubtful CHMI has been complying with any of the other record keeping requirement enumerated above.

5. The alternative standard for 40 CFR part 63, subpart T, is 150 kg/m<sup>2</sup>/month, or approximately 30.43 lb/ft<sup>2</sup>/month. CMHI has been exceeding 40 CFR 63.464 emission limits. If CHMI is using an eight square foot degreaser, the emission limit would be approximately 2,952 lbs/year VOC. CHMI's 2000 Environmental Inventory Questionnaire (EIQ) stated the actual emissions for the degreaser were 4,080 lbs/year VOC, and in 2003 the EIQ stated the actual emissions were 3,440 lbs/year VOC.

**V. ORDER**

THEREFORE, the DNR orders and CHMI agrees to do the following:

1. Submit a plan for compliance with the requirements of the Halogenated Solvent Cleaning NESHAP by February 1, 2008;
2. Apply to have current construction permits amended to reflect the additions of machines added to the facility by February 1, 2008;
3. Pay a penalty of \$4,500.00 within 60 days of the date the Director signs this administrative consent order.

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**VI. PENALTY**

1. Pursuant to the provisions of Iowa Code section 455B.109 and 567 IAC Chapter 10, which authorize the Director to assess administrative penalties, a penalty of \$4,500.00 is assessed effective 30 days from the date this order is signed by the Director. The penalty shall be paid within 60 days of the date this order is signed by the Director. The administrative penalty is determined as follows:

2. Iowa Code section 455B.146 authorizes the assessment of civil penalties of up to \$10,000.00 per day of violation for the air quality violations involved in this matter. More serious criminal sanctions are also available pursuant to that provision.

3. Iowa Code section 455B.109 authorizes the Environmental Protection Commission to establish by rule a schedule of civil penalties up to \$10,000.00, which may be assessed administratively. The Commission has adopted this schedule with procedures and criteria for assessment of penalties in 567 IAC Chapter 10. Pursuant to these rules, the DNR has determined that the most effective and efficient means of addressing the above-cited violations is the issuance of an administrative consent order with an administrative penalty of \$4,500.00. The administrative penalty is determined as follows:

Economic Benefit- CHMI's failure to go through the proper construction permitting steps prevented the DNR from evaluating the source's environmental impact prior to installation. This time saving factor has allowed CHMI to operate sooner, thereby affecting a cost saving by avoiding construction and operating delays. Non-compliance of 40 CFR part 63, subpart T, saved CHMI employees' time and expenses. Based on the above considerations, \$1,000.00 is assessed for this factor.

Gravity – CHMI was required to obtain a construction permit prior to the construction in order to allow for the prior review of plans and specification pertaining to a proposed contaminant source. The purpose of this review is to determine if the source will meet all applicable emission limits and operating requirements. This review ensures that the interests of the citizens of Iowa are protected. Construction prior to obtaining required permits also threatens the integrity of the permit and air pollution control equipment. Because CHMI failed to submit reports required by 40 CFR part 63, subpart T, the DNR has not had the opportunity to review and determine CHMI's compliance status. Based on the above considerations, \$2,000.00 is assessed for this factor.

Culpability- CHMI has the duty to remain knowledgeable of the DNR's requirements and to be alert to the probability that its conduct is subject to the rules of the DNR. Based on the above considerations, \$500.00 is assessed for this factor.

Mitigating or Aggravating Factors- CHMI has been issued an Administrative Order in 1991, and a Notice of Violation in 1998 for violations that are similar to those referenced herein. Therefore, \$1,000.00 is assessed for this factor.

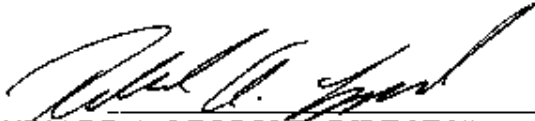
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**VII. WAIVER OF APPEAL RIGHTS**

This administrative consent order is entered into knowingly and with the consent of CMHI. For that reason CMHI waives its right to appeal this administrative consent order or any part thereof.

**VIII. NONCOMPLIANCE**

Failure to comply with this administrative consent order, including failure to timely pay any penalty, may result in the imposition of further administrative penalties or referral to the attorney general to obtain injunctive relief and civil penalties pursuant to Iowa Code section 455B.191. Compliance with Section "V. Order" of this administrative consent order constitutes full satisfaction of all requirements pertaining to the specific violations described in Section "IV. Conclusions of Law" of this administrative consent order. DNR reserves the right to bring enforcement action, including penalties, or to request that the attorney general initiate legal action to address other violations not described in Section "IV. Conclusions of Law" of this administrative consent order but which may arise from the facts summarized in Section "III. Statement of Facts" of this administrative consent order. DNR specifically reserves the right to pursue enforcement action, including penalties, for any current violations not specifically cited in this administrative consent order.

  
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RICHARD A. LEOPOLD, DIRECTOR  
Iowa Department of Natural Resources

Dated this 8 day of  
Jan, 2008.

  
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AUTHORIZED AGENT  
Custom Hardware Manufacturing, Inc.

Dated this 6<sup>th</sup> day of  
December, 2007.